



**CALIFORNIA ENVIRONMENTAL  
PROTECTION AGENCY**

**CAL/EPA ENFORCEMENT PROGRAM UPDATE**

**A Report on Actions Taken in 2006 to Implement  
Government Code Section 12812.2**

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**CAL/EPA ENFORCEMENT PROGRAM UPDATE**  
**A Report on Actions Taken in 2006**  
**to Implement Government Code Section 12812.2**

Government Code section 12812.2 (a) prescribes the following duties of the California Environmental Protection Agency (Cal/EPA) Deputy Secretary for Law Enforcement and Counsel:

1. Develop a program to ensure that Cal/EPA, its entities, and local government take consistent, effective, and coordinated enforcement actions. The program shall include training of inspection personnel to ensure consistent, effective, and coordinated enforcement.
2. Establish a cross media enforcement unit to assist Cal/EPA, its entities, and local government to investigate and prepare matters for enforcement action.
3. Refer violations of environmental law or regulation to prosecutors such as the U.S. Attorney, Attorney General, or District Attorneys.

As required by 12812.2 (c), this report provides an update on actions taken during 2006 to implement this section.

**1. Cal/EPA's program to ensure that its entities and local government take consistent, effective, and coordinated enforcement actions.**

Cal/EPA's program to ensure consistent, effective, and coordinated enforcement actions has several components:

- Targeted program and infrastructure improvement tasked to Enforcement Initiative Teams
- Training for regulators, investigators and prosecutors
- The Environmental Circuit Prosecutor Project to address the need for prosecutorial resources in rural counties
- Securing funding for enforcement and training
- Environmental enforcement task forces to facilitate communication between regulators and prosecutors and to coordinate cross media investigations
- Reorganizing personnel to better meet enforcement needs

Each of these components is described below.

## The Cal/EPA Enforcement Initiative

In October 2004, Cal/EPA directed the first steps to implement Cal/EPA's "Enforcement Initiative." Nine teams were established to carry out specific enforcement improvement tasks. Details about the teams are available on the Internet at <http://www.calepa.ca.gov/Enforcement/Initiative/default.htm>.

Each of the Enforcement Initiative Teams has made significant progress. These accomplishments include:

- Established a Cal/EPA steering committee for data standardization, a critical first step toward better data integration and exchange.
- Surveyed permitting and enforcement programs to identify enforcement issues with permits.
- Completed a pilot project to integrate environmental data from 12 different information systems.
- Established a Cal/EPA online system for government or the public to report environmental violations.
- Developed a list of recommended basic enforcement training courses for all Cal/EPA inspectors.
- Delivered new investigative tools such as guides for using internet resources in inspections and investigations.
- Formulated a draft Enforcement Operations Program Model.
- Improved the availability of geographical information system (GIS) resources.

## Enforcement Training

One crucial role Cal/EPA plays in California's diverse and decentralized network of enforcement is coordination and support of training of enforcement personnel. Environmental laws and regulations are very technical and require special expertise to enforce. Basic and continuing education for environmental regulatory professionals is key. Enforcement requires additional skill sets, such as cross media violations awareness, report writing, investigation, and case development.

Cal/EPA coordinates enforcement training with the California District Attorneys Association, the California Hazardous Materials Investigators Association, the Western States Project (a U.S. EPA funded training entity) and the Peace Officers Standards Training Commission (POST). Enforcement training information is on the web at: <http://www.calepa.ca.gov/Enforcement/Training>.

Specific enforcement training is described below. Cal/EPA continues to fund several of these enforcement training events using money from settlements of enforcement actions in which a portion of the settlement funds were specifically designated for use for enforcement training. These funds were the source of the enforcement scholarships referred to below.

### The Cal/EPA Basic Inspector Academy

The Academy provides baseline knowledge of environmental enforcement and works in conjunction with existing program specific training to prepare state and local environmental regulatory staff to conduct efficient and professional inspections. Training includes overviews of all environmental regulatory programs. Students learn to recognize cross media violations and to work with their partner agencies. Six hours of this training are available online at <http://www.calepa.ca.gov/enforcement>. The complete Academy course includes both the online module and 4 days of classroom training. The classroom sessions include a simulated inspection, report writing, case review by prosecutors and mock testimony. In 2006, the Academy was offered in Sacramento, Fresno, and Los Angeles and 92 people completed the course. Staff support for this training is provided by the Air Resources Board.

### The Cal/EPA Cross Media Environmental Enforcement Symposium

This annual four day advanced training event is open to government, industry, and members of the public. Training sessions cover enforcement issues from each of Cal/EPA's Boards and Departments. Real and mock case studies are presented to illustrate current enforcement topics. Cross program, cross media violations and investigations are emphasized. Topics in 2006 included forensic photography, innovative programs such as the load check program from Riverside County, lab fraud and enforcement at federal facilities. Mock testimony is provided and each attendee sits on a jury panel that deliberates an enforcement case. The Symposium is certified for Continuing Education Credits and for Mandatory Continuing Legal Education. Two hundred one individuals attended the Symposium in 2006. Using enforcement scholarships, Cal/EPA paid for speaker travel costs and for registration and/or travel costs for 59 enforcement staff from state and local environmental regulatory programs. Staff support for this training is provided by the Air Resources Board. For more information, see: <http://www.arb.ca.gov/training/enfsym.htm>.

### The ninth Annual Unified Program/Underground Storage Tank Training Conference

The Unified Program (CUPA) consolidates permits, inspections, and enforcement activities for six hazardous materials, hazardous waste, and emergency management programs. The annual training conference has over 1,200 attendees. Sixty technical sessions are presented in six different "tracks". Cal/EPA coordinates the enforcement track of sessions that in 2006 included multi-county investigations, gathering and presenting evidence and violation classification. Cal/EPA awarded 92 enforcement training scholarships to local CUPA staff and paid for travel costs for speakers on enforcement subjects. Cal/EPA paid for enforcement track classes to be recorded and transferred to compact disks that show both video of the speaker and the Power Point presentation on the same screen. Cal/EPA is working with the CUPA Forum Board to establish a web based portal where these taped trainings can be viewed online.

### Other Enforcement Training

The Department of Toxic Substances Control, Task Force Support Branch partnered with Cal/EPA and the California Hazardous Materials Investigators Association to bring enforcement training to several local task forces in 2006. This training included case development skills and training by non-Cal/EPA agencies such as the Department of Fish and Game, which have critical roles in environmental protection.

Cal/EPA continued broadcasting and recording free monthly enforcement “brown bag” training sessions in 2006. The live broadcasts reached Cal/EPA employees in the headquarters building and regional offices through the Cal/EPA intranet. Recordings are available through the Cal/EPA enforcement library. Topics included search and seizure issues, bankruptcy, collection issues, and federal contract suspension and debarment.

Cal/EPA provided scholarships for state and local environmental enforcement staff to attend training given by the Western States Project. Ninety staff from California attended the “Introduction to Environmental Enforcement” three day training, of whom 13 received Cal/EPA scholarships. Forty-six staff from California attended the three-day “Introduction to Environmental Criminal Investigation” training, of whom 17 received Cal/EPA scholarships.

### The Environmental Circuit Prosecutor Project

The Environmental Circuit Prosecutor Project is a cooperative project of the Cal/EPA and the California District Attorneys Association as provided for in Penal Code section 14309. The Project fills the gap in the enforcement of environmental laws in California’s small counties by providing environmental prosecutors to District Attorneys in rural areas. During 2006, Cal/EPA continued to provide the largest share of funding for the Project. In addition to the funding provided by Penal Code section 14300 described below, Cal/EPA continued its support of the Project in the amount of a \$300,000 contract in fiscal year 2005-2006.

In 2006, the Project served 30 rural counties and opened 176 environmental civil and criminal cases, closed 141 cases, obtained \$1,016, 626 in fines, penalties, costs and additional relief, 900 days of jail time and 19 years of probation. For more information, see <http://www.calepa.ca.gov/Enforcement/CircuitPros>.

### The Penal Code Section 14300 Environmental Enforcement and Training Act

The legislation that created this Act was the product of a Cal/EPA chaired stakeholder group that was charged with the task of finding alternative means of supplemental funding for environmental enforcement and training. This Act provides a method for the distribution of grant funds for enforcement, enforcement training, and the Environmental Circuit Prosecutor Project. Funding for the account comes

from money designated for such use in civil or administrative judgments in enforcement cases. These contributions are often referred to as Supplemental Environmental Projects or “SEPs.” Private contributions may also be received. No General Fund money is used in this account. Cal/EPA manages this account and the grants issued using these funds.

A total of \$654,081.06 was distributed in 2006, apportioned as required by statute:

- 25% (\$163,520.26) to the Environmental Circuit Prosecutor Project
- 25% (\$163,520.26) to the California District Attorneys Association, for enforcement training
- \$100,000 to POST, for enforcement training
- Remainder (\$227,040.54) to Cal/EPA to be awarded as grants for training and enforcement

Cal/EPA awarded grants in the amount of \$227,040.54. The California District Attorneys Association requested additional funds to support the Circuit Prosecutor Project. This request was approved for \$206,768.54.

An application was received from the Air Resources Board, to pay for equipment and other expense related to the Cal/EPA Cross Media Enforcement Symposium. This request was approved for \$20,000.

An application was received from the North Coast Air Quality Management District for \$272 for registration for staff to attend Penal Code section 32 training at a local junior college. This request was approved.

Utilizing Penal Code section 14300 funds, POST has created a DVD entitled “Enforcement of Environmental Laws”, designed to increase the peace officer’s recognition of environmental crime as a threat to public safety and to encourage enforcement of environmental laws at the local level. The DVD provides an overview of the long-term effect of environmental crimes, details important officer safety concerns when responding to the scene of an environmental crime, and highlights those environmental laws that peace officers may enforce. The DVD has been distributed by POST and by Cal/EPA.

For more information on the Penal Code section 14300 fund, see <http://www.calepa.ca.gov/Enforcement/Grants/2006/14300>.

### Supporting Environmental Enforcement Task Forces

Since its inception, Cal/EPA has been encouraging the creation and support of task forces dedicated to the deterrence, detection, investigation, and prosecution of environmental violations. Environmental enforcement task forces are comprised of voluntarily participating federal, state, and local agencies with enforcement authority. The members of these task forces generally include local, state or federal

prosecutors, local, state, and federal law enforcement agencies (sheriff, Fish and Game wardens, California Highway Patrol, Federal Bureau of Investigation, U.S. EPA Criminal Investigation Division, etc.), investigators and technical experts from Cal/EPA's Boards and Departments, and local environmental agencies (local hazardous material control programs, air pollution control districts, sanitation departments, etc.). Task forces facilitate the pooling and exchange of resources and intelligence between different law enforcement and regulatory entities. These cooperative partnerships allow task force member agencies to pursue investigations that they would not be able to complete alone.

The Cal/EPA Department of Toxic Substances Control Task Force Investigations Support Branch (Task Force Support) has staff located in Sacramento, Glendale, and Berkeley. This group supports environmental task forces and address investigation tools and resources. They work closely with local, state, and federal environmental regulatory agencies, investigators, and prosecutors to coordinate environmental enforcement.

Task Force Support provides training in various investigative techniques; sampling and investigative expertise, equipment, and laboratory services; conveys complaints and referrals to the local task force agencies; and helps coordinate multi-agency investigations of environmental violations.

The work of Task Force Support has improved the abilities of regulatory agencies to respond to complaints and environmental crimes, to prosecute complex and difficult cases, to react quickly to environmental emergencies, and to coordinate activities between agencies.

Every county in California is covered by a local environmental enforcement task force. In addition, there are some regional and/or single subject task forces. For more information, see <http://www.calepa.ca.gov/Enforcement/TaskForce>.

Cal/EPA chairs the state environmental enforcement task force, which meets monthly. Attendees include representatives from enforcement programs from Cal/EPA Boards and Departments, enforcement liaison attorneys from the Cal/EPA Boards and Departments, the Department Fish & Game, the California District Attorneys Association, Assistant U.S. Attorneys, Deputy Attorneys General, U.S. EPA Criminal Investigation Division, and the federal Bureau of Land Management . The purpose of these meetings is to go over current major cases, discuss enforcement program administrative issues (new regulations, legislation, and budgets), address needs for joint investigations, enforcement training, and enforcement projects such as the Environmental Circuit Prosecutor Project, and discuss issues affecting local agency partners.

Cal/EPA participates in the Border Environmental Enforcement Task Force, a group of federal, state, and local officials that meets quarterly in the Mexico/California border area to discuss border-related environmental enforcement issues; and the



Border 2012 California/Baja Waste and Enforcement Task Force, which includes Mexican environmental enforcement officials.

### Reorganization to Improve Enforcement

The State Water Resources Control Board created a new Office of Enforcement (Office) to enhance and professionalize the prosecution of water rights and water quality enforcement actions. The Office consists of attorneys and investigative technical staff who work with regional staff to investigate and prosecute the most complicated water quality enforcement actions, as well as water quality violations that are multi-regional. In addition, the Office prosecutes all water rights enforcement actions initiated by the Division of Water Rights. The Office helps train and coordinate additional enforcement staff within the nine Regional Water Boards and the State Water Board's Division of Water Rights.

The Office has embarked on a number of statewide enforcement initiatives, including actions involving underground storage tank systems, operator certification violations, illegal discharges of thermoplastic resin pellets, and fraud against the Underground Storage Tank Cleanup Fund. The attorneys in the Office are handling complex enforcement cases such as the large-scale illegal use of septic tanks in the community of Los Osos and the cleanup of perchlorate contamination in the Rialto/Colton groundwater area.

### New Enforcement Resources

To strengthen Cal/EPA's environmental enforcement efforts, the Governor's Budget for the 2007-2008 fiscal year includes new funding and positions dedicated to specific enforcement activities. The Budget includes \$435,000 and 4.8 positions for electronic waste program fraud prevention and payment system enhancements in the Integrated Waste Management Board. The Budget also includes \$518,000 and 4.8 positions to conduct financial audits to ensure that waste diversion, used oil and tire recycling and electronic waste programs are properly enforced. The Budget includes \$667,000 and 5.7 positions for the Department of Pesticide Regulation to enhance state oversight of county pesticide use enforcement activities and to train county staff to prepare cases and conduct administrative penalty hearings related to pesticide use enforcement.

## **2. Cal/EPA assistance on investigation and enforcement actions.**

Cal/EPA has institutionalized the cross media model of investigation and enforcement. Cal/EPA's enforcement training is focused on the cross media model. The Cal/EPA Basic Inspector Academy trains inspectors to recognize enforcement issues outside their own programs and how to create cross media teams. The annual Cal/EPA Cross Media Enforcement Symposium highlights accomplishments in this area and teaches this model to regulators, investigators, and attorneys. This training is brought to reality by the task forces described above, where inspectors

and others can request assistance with enforcement investigations. Cross media enforcement is a regular part of environmental enforcement in California; every day regulators and investigators “make the call” to another agency about violations requiring this approach.

Pursuant to a Memorandum of Understanding between the ARB and Cal/EPA, the Strategic Enforcement Investigations (SEI) unit at ARB has been designated as Cal/EPA’s cross media enforcement unit in accordance with Government Code section 12812.2. The Department of Toxic Substances Control also provides enforcement assistance through its Criminal Investigations Branch and Taskforce Support Branch (see above). Both SEI and Task Force Support assist state and local agencies with enforcement resources and case development. Other Cal/EPA Boards, Departments, and local agency partners provide enforcement and case development assistance on a case-by-case basis.

SEI has surveillance equipment and staff to assist state and local agencies in investigations of environmental crimes. Video evidence is a highly effective tool in environmental crime enforcement and its use by state and local agencies continues to grow. The use of remote surveillance is particularly effective in illegal dumping problem areas.

SEI staff made a presentation at the 2006 Cal/EPA Environmental Cross Media Enforcement Symposium on remote surveillance technologies and equipment. The presentation included case studies covering many different areas of environmental enforcement, and how to properly utilized remote surveillance. SEI staff also presented at the annual CUPA/UST training conference using computer an internet resources in case development and provided similar training at a Cal/EPA “brown bag” training event.

One of the original Enforcement Initiative teams was the Cal/EPA Strategic Enforcement Intelligence Team (SEIT). The team was led by the SEI manager and was made up of enforcement specialists from the Cal/EPA Boards and Departments. In 2006, SEIT successfully completed its assignment of looking at ways to conduct significant environmental investigations outside of normal inspection routines, participating in environmental crimes task forces, presenting Intelligence Team concepts to local enforcement personnel, developing enforcement materials and training to help assure consistent enforcement and coordinated its activities with other Enforcement Initiative teams. The SEIT team was responsible for major portions of the Enforcement Resources webpages that are available on the Cal/EPA intranet and at <http://www.calepa.ca.gov/Enforcement/Resources>. This website has checklists, tools, and guides that may be used in inspections and enforcement case development. SEIT has completed its assigned mission but the team’s work products will continue to have a lasting impact on environmental enforcement at both state and local levels.

### **3. Case Coordination and Referral**

During 2006, Cal/EPA continued to make referrals involving allegations of violations of environmental laws to prosecutors such as the California Attorney General's Office, the U.S. Attorney, and local District Attorneys. These referrals are either currently being investigated, or in pre-filing settlement negotiations, so specific case information cannot be disclosed at this time.

In California, environmental enforcement actions are taken by federal, state, and local agencies. In addition to coordinating through the task forces detailed above, Cal/EPA meets with US EPA Region 9 enforcement officials regularly to discuss federal enforcement activity and to coordinate joint state and federal investigations and prosecutions.

Cal/EPA hosted three "Environmental Prosecutor Roundtable" meetings held at different locations throughout the state. These were the first meetings to discuss enforcement to include environmental prosecutors and state and local environmental regulators from all Cal/ EPA programs. The focus was improvement of environmental crime referrals and prosecution. Attendees included Cal/EPA and its Boards and Departments, the Attorney General's Office, California District Attorneys Association, local district and city attorneys, the Agricultural Commissioners Association, the California Air Pollution Control Officers Association, Local Enforcement Agencies (local solid waste agencies) and the CUPA Forum Board (local hazardous waste and hazardous materials program). These meetings resulted in the development of criminal referral protocols by the Attorney General's Office and each Cal/EPA Board and Department.

California has seen an increase in the number of multi-county and statewide civil cases brought to enforce environmental laws. These cases require close cooperation between the regulators in various jurisdictions and the local and state prosecutors. Cal/EPA has assisted this effort by providing training on this subject at the Cal/EPA Enforcement Symposium and the CUPA/UST Training Conference.